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GAME PROTECTION IN FLORIDA.

Experience extending over many years has clearly shown the futility of any scheme of game protection in the United States which does not provide for a general official in charge of the work. This fact has been so generally recognized that 35 States and 3 Territories now maintain State or Territorial game commissioners or wardens. Florida is one of the 9 States in which provision has not been made for such an officer and one of the 7 in which the enforcement of game laws is intrusted wholly to county wardens. Experiments in other States have plainly demonstrated the practicability of supporting a State game department entirely with the revenue derived from hunting-license fees. Florida realizes a considerable sum each hunting season from nonresident hunting licenses, but, as at present applied, this fund furnishes little support to game preservation.

In the course of its work the Biological Survey has indexed the game laws and collected statistics of hunting licenses in detail in a number of States. In the case of Florida the indexing has been completed, and the returns for the hunting licenses issued during the past season have recently been received. It is therefore possible to present this information in a more complete form than has hitherto been possible. Advantage has been taken of this opportunity to direct attention to the present status of game protection in the State. This has been done by reviewing the progress of game legislation from the time the State was first organized as a Territory to the present year; by bringing together in compact and convenient form the titles of the laws, now scattered through many volumes, some of which are not accessible to the general public; and by demonstrating the feasibility of establishing an efficient, self-sustaining game department through the application of hunting-license funds.

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WASHINGTON, D. C., May 3, 1907.

HISTORY OF LEGISLATION.

Florida was organized as a Territory in March, 1822, and the first legislature convened at Pensacola in that year. Game legislation began five years later and has continued with increasing activity to the present time. Examination of the laws shows that the growth of this legislation may be naturally divided into three distinct periods: (1) From 1827 to 1875, during which time measures were adopted for the protection of persons and property rather than for the preservation of game; (2) from 1875 to 1891, when the laws provided a limited protection for game; and (3) from 1891 to the present time, when modern and more comprehensive laws were adopted.

(1) *Laws to protect persons and property.*—The first game law was passed in 1827 and was designed to prevent fire hunting at night west of the Suwannee River, thereby preventing careless shooting of domestic cattle or burning of property. Captains in the militia were required to have the act read at the head of their companies twice every year. A similar law applicable to the whole Territory was passed in the following year. The State had been admitted to the Union six years before the next game law, the act of 1851 to prohibit camp hunting by nonresidents in Escambia and Santa Rosa counties, was passed. These three laws seem to have been modeled after similar laws previously enacted in Alabama. To prevent depredations on the part of irresponsible nonresidents it was enacted in 1855 that citizens of other States should not assemble in the State with dogs and firearms for the purpose of camp hunting, but they might do so if accompanied by citizens of the State. In 1859 Sunday hunting was prohibited, and all camp hunting in Taylor and Lafayette counties was denied nonresidents of the State under penalty of a fine of \$100 to \$500.

The first trespass law was passed in 1866 and prohibited hunting or “ranging with a gun” on the inclosed lands of another without permission. The penalty was an hour in the pillory and the infliction of not more than 39 lashes. With very little change, except in penalty, this has remained the law to the present day.

(2) *Limited protection for game.*—In 1875 export of game was partially prohibited by a measure requiring a nonresident who hunted for the purpose of conveying his game out of the State to obtain a \$25 license in the county where he proposed to hunt. The drying, salting, curing, packing, or caging of any game by a nonresident was made prima facie evidence of intent to convey it out of the State. Close seasons first appeared in the act of 1877 for the protection of deer, turkeys, and partridges; and though the close season of five months was shorter than expediency demanded, it paved the way for a longer season in years to follow. The inclusion of the mockingbird in the protection

accorded by this act, and the passage during the same year of an act to prevent wanton destruction of nests, eggs, and young of sea birds and birds of plume, mark the beginning of legislation for the protection of nongame birds, due to an awakening to the devastation caused by the merciless operations of agents of millinery houses in the North. But these measures, even though combined with an act passed two years later to prevent aliens from killing birds of plume, did not interpose an effective check to the destructive work. These inadequate measures remained in force without amendment until the beginning of the next period, twelve years later.

(3) *More comprehensive protection of game.*—By 1891 the necessity for stricter laws was plainly manifest, and that year was marked by resumption of legislative interest in game and birds. A very notable advance was made by the passage of an act shortening the open season for deer, turkeys, and partridges and prohibiting their sale and possession during the close season,¹ prohibiting the netting and trapping of partridges and wild turkeys, and allowing informers one-half the fines. Another effort was made at this session to prevent the destruction of plume birds, by an act prohibiting the killing of cranes, egrets, ibises, curlews, and herons for sale or traffic, under a penalty of not more than \$300. This was far in advance of any former attempt to protect nongame birds, but failed to accomplish its purpose owing to inadequate means of enforcement. In 1893 killing the manatee or sea cow, except for scientific purposes under permit from the county commissioners, was prohibited under severe penalties. During the same year the first complete nonexport law was enacted, but was limited to the shipment of partridges from the county where killed. At the next session of the legislature this prohibition was extended to deer and turkeys and has continued in force to the present time.

In 1895 an act was passed which virtually codified the game laws. This important measure forbade sale of deer or venison outside of the county where obtained or its export from such county for sale; required county commissioners to fix an eight months' close season for deer uniform in the southern half of the State; and, for the first time, placed a limit on the number of turkeys and partridges that might be killed in a day by each hunter.² It also prohibited hunting on posted lands and gave five years' absolute protection to imported pheasants which had been recently introduced into the State.

Despite these excellent laws, game and birds continued to be killed at all seasons and without limit, as ordinary officers of the law either countenanced the violations or were too busy with other duties to pre-

¹ Sale of deer at any time was not prohibited until 1899, and of turkeys and partridges until 1903.

² The limit of 4 turkeys and 25 partridges per day was reduced in 1905 to 2 and 20, respectively.

vent them. Hence in 1897 an act was passed to authorize the appointment of a game warden in each county with power to arrest offenders. The term of office was four years and the salary fixed by the county commissioners. The scheme of appointment was somewhat changed in 1899 by requiring the application of 50 registered voters for a warden in any county desiring such officer and reducing the term to two years. The law was further modified in 1905 by making the appointment dependent upon the application of 75 freeholders, requiring each warden to give a \$500 bond, and fixing a maximum salary of \$60 a month. It will be observed, however, that the selection of a warden in any county was still entirely optional. In 1903 Hillsborough County was allowed an additional warden, and the Governor was authorized to appoint two wardens for Lafayette County.

Although some restrictions on nonresidents had been in force since 1855, the modern hunting license was not adopted until 1899, when every nonresident wishing to shoot deer, partridges, or wild turkeys was required to take out a license in the county where he proposed to hunt. The fee was placed at \$10 and the proceeds devoted to the payment of county wardens. In 1905 the hunting-license provision was so amended as to apply to aliens as well as nonresidents and was broadened in such a way as to require them to procure licenses to hunt any game. During the session of 1899 the first act for the protection of ducks was passed, making a close season from April 1 to October 1, and the number of deer each hunter was allowed to kill was limited to five a year. This latter restriction would have expired by limitation in five years, but was extended in 1903 to January 1, 1908.

Important as were these various provisions for protection of game, they did not keep pace with legislation for protection of nongame birds. Despite the three laws already mentioned, the ruthless slaughter of herons, egrets, and other plume birds had continued unabated for years until the ranks of these birds, once so numerous, had been reduced to the verge of extermination. For years other nongame birds had been shot, trapped, and persecuted, greatly to the detriment of the agricultural interests of the State, which suffered through the destruction of these efficient checks on the increase of injurious insects and weeds. Finally, in 1901, the State adopted a law similar to those which had been in force for some years in a few of the older and more conservative States protecting practically all birds other than game. Though long delayed, this act marked a turning point in bird protection. Immediately following its passage, special protection, which had been impossible under previous laws, was extended to the only known nesting colony of pelicans on the east coast, and shortly afterwards Pelican Island, in Indian River, on which the colony was located, was made a Federal reservation. Two similar reservations were subsequently established by Executive order near the mouth of Tampa Bay.

DECISIONS OF THE COURTS.

Although laws for the protection of game have existed in Florida for eighty years, yet in all this time not a single case involving any question in connection with them has reached the supreme court. Such a condition is unparalleled elsewhere in the United States except in Delaware, Arizona, and New Mexico. Few, if any, cases have even reached the circuit courts, but this is due mainly to the fact that offenses of this character, except in a few counties where there is a county court or a criminal court of record, are exclusively within the jurisdiction of justices of the peace or county judges and can not reach the circuit court except upon appeal by the defendant. In fact, in comparison with the record in other States, prosecutions under the game laws have been very infrequent in any of the courts. One case of special interest deserves mention in this connection because the first of the kind in the State. This was a conviction obtained at Tampa in 1904 in the United States district court for the southern district of the State and was based upon the killing and subsequent shipment from Florida of certain non-game birds in violation of the act of 1901 and the Lacey Act.

PRESENT STATUS OF GAME PROTECTION IN THE STATE.

Florida is second to no State in the Union in its laws protecting non-game birds; but its laws for the protection of game, though much improved in late years, are still not sufficiently comprehensive to meet present needs. Several valuable game birds, such as doves, woodcock, snipe, plover, sandpipers, rail, and shorebirds, have no protection either in the form of close seasons, bag limits, or restrictions on sale or export. There are no laws forbidding the destruction of nests and eggs of partridges, turkeys, or other game birds and none to prohibit trapping or netting these birds. No prohibition exists of the export of ducks or other waterfowl. Such conditions endanger the game supply of the State inasmuch as the door is left open to unrestricted market hunting either for local consumption or for shipment to northern cities. If existing laws were strictly enforced, much could be done for the preservation of the game, but such a result is difficult to attain with the present administrative machinery. The county warden system still prevails and is optional with each individual county. As a result less than half of the counties are provided with game wardens.

In the protection of nongame birds the State fortunately has the benefit of other agencies besides its warden service. The Florida Audubon Society, with headquarters at Maitland, in Orange County, which was organized some years ago for the purpose of disseminating information about birds and securing the cooperation of the children of the State in their protection, has published and distributed much literature on the subject and has interested many children in the study of birds. In

cooperation with some of the county school boards it has secured the inclusion of nature study in the curriculum of the public schools. The National Association of Audubon Societies, an incorporated association for the preservation of wild birds and animals, with headquarters in

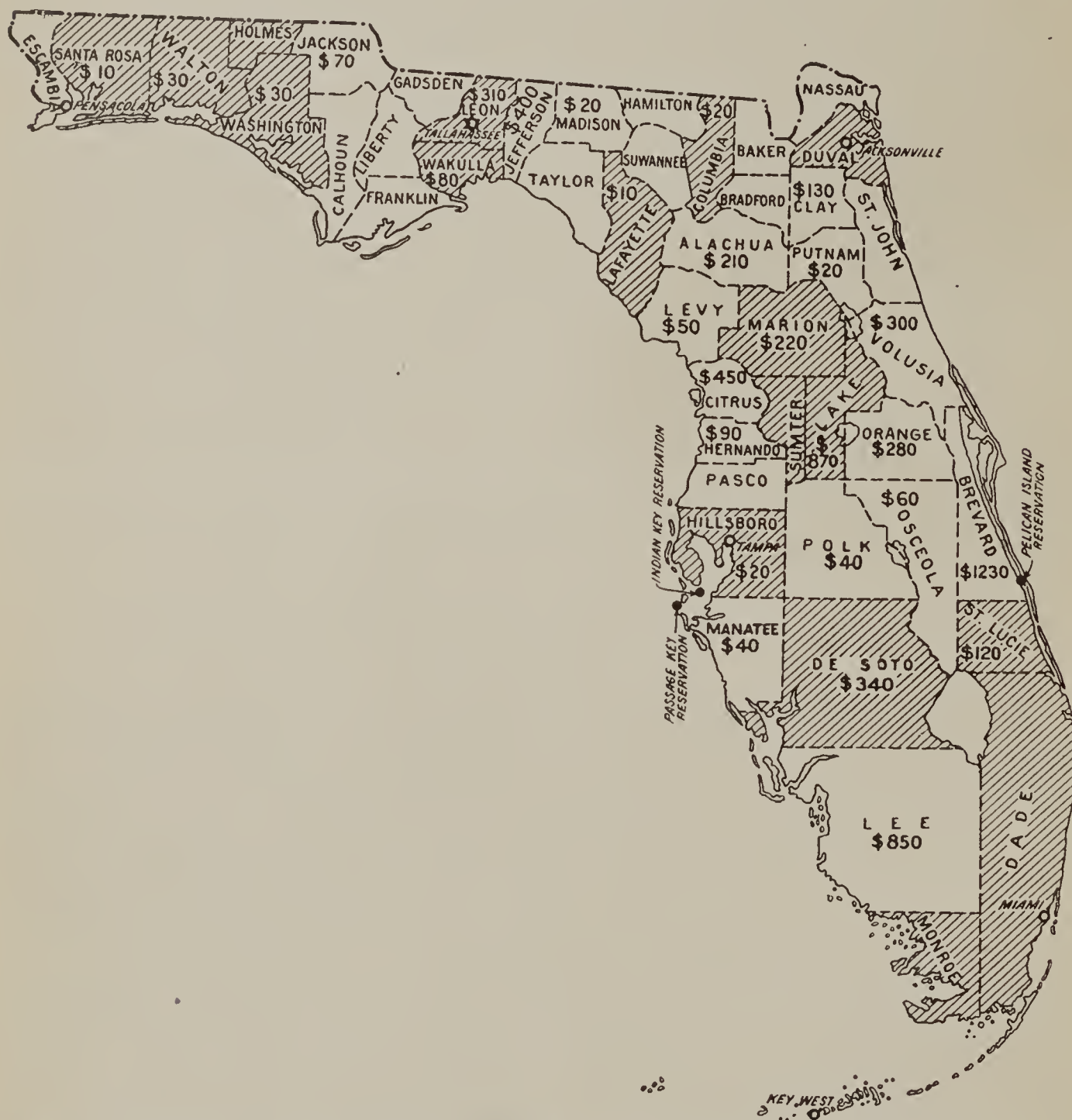


FIG. 1. Map showing hunting-license receipts and game-warden service in each county in Florida during the open season, November 1, 1906, to March 1, 1907. Shaded areas indicate counties which had wardens on duty, and figures the amounts collected. The three Federal bird reservations also are shown.

New York City, has exerted a conspicuous influence on the protection of birds and game in Florida. It was largely responsible for the establishment of the three bird reserves now maintained by the Federal Government in the State and cooperates with the Department of Agriculture in maintaining the warden service on these reserves. It cooperated with the game warden of Monroe County for several years, furnishing a launch for patrolling the coast, and paid him a salary for his services in protecting plume birds. It has supplied many circulars and other publications for the use of the Florida Audubon Society and has furnished citizens of the State with much valuable information relative to birds and game.

The Federal Government, as already stated, maintains three bird reservations in Florida, one on Pelican Island, in Indian River, Brevard County, and two near the mouth of Tampa Bay, on Passage Key and Indian Key (see map). These reservations, which are small, low, sandy, or muddy islands, worthless for agriculture, are the resorts of certain interesting and beautiful sea birds. They have been set aside by the President of the United States and placed in charge of the United States Department of Agriculture under orders dated, respectively, March 13, 1903, October 10, 1905, and February 10, 1906. In 1906 Congress passed a law prohibiting trespass upon them as well as upon similar reserves elsewhere in the United States.

FUNCTIONS OF A STATE GAME COMMISSIONER.

Game laws, like other statutes, are not automatic. They are not enforced unless it is made the duty of some officer to enforce them. Prior to 1897 Florida intrusted the enforcement of the game laws to constables, sheriffs, and similar peace officers, and the results were no more satisfactory than they have been in other States. During the last ten years provision has been made for the appointment of county wardens, but this system has likewise proved unsatisfactory because the appointment is made optional with each county and requires in each case the application of at least 75 freeholders, and for the further reason, as experience has shown, that there never is unity of action between county wardens unless there is a general officer to direct and control them. Only 17 counties at present avail themselves of this privilege (see map). The need of a State officer to supervise and coordinate the efforts of the county wardens is thus referred to in the report of the Commissioner of Agriculture of Florida for 1905-6, page 34:

There should be a State game warden, who shall have the power to appoint deputy wardens in each county and have entire control of them. Such a bill as is here indicated was introduced in the legislature of 1903; but like other things that were capable of accomplishing something, it was not popular. But it was a good bill and would bear resurrecting and merit careful consideration.

The principal objection usually made to establishing such an office is expense, but in this case no serious difficulty need be apprehended because the receipts from nonresident licenses, since the passage of the law in 1899, already provide a fund of several thousand dollars. Statistics for the first five seasons are not available, but in 1904-5 the receipts were \$4,620; in 1905-6, \$6,070; and in 1906-7, \$6,380. In the accompanying table the receipts in each county are given for the last three hunting seasons, and those for the past season are also given on the accompanying map. Examination of this map will show that some of the counties which have the largest returns have appointed no wardens, and other counties which have wardens issued few, if any, licenses. In those counties where there is no warden the money is

placed in the fine and forfeiture fund and used for the payment of costs of criminal prosecutions. If county wardens were appointed more generally, and if their work were under the supervision of a State commissioner, undoubtedly the license receipts could be materially increased, and at the same time the game laws would be more generally enforced.

Nonresident hunting licenses issued in Florida for the open seasons 1904 to 1907 (open seasons extend from November 1 to March 1).

County.	1904-5.		1905-6.		1906-7.		County.	1904-5.		1905-6.		1906-7.	
	Number.	Amount.	Number.	Amount.	Number.	Amount.		Number.	Amount.	Number.	Amount.	Number.	Amount.
Alachua	18	\$180	19	\$190	21	\$210	Levy	6	\$60	10	\$100	5	\$50
Baker							Liberty						
Bradford							Madison			2	20	2	20
Brevard	61	610	160	1,600	123	1,230	Manatee	2	20	5	50	4	40
Calhoun							Marion	14	140	16	160	22	220
Citrus	21	210	23	230	45	450	Monroe						
Clay	13	130	14	140	13	130	Nassau						
Columbia	5	50	5	50	2	20	Orange	22	220	28	280	28	280
Dade	2	20					Osceola			7	70	6	60
De Soto	23	230	21	210	34	340	Pasco						
Duval							Polk	3	30	5	50	4	40
Escambia							Putnam	3	30	3	30	2	20
Franklin							Santa Rosa			1	10	1	10
Gadsden							St. Johns	2	20	2	20		
Hamilton							St. Lucie ^a					12	120
Hernando	3	30	7	70	9	90	Sumter	1	10	3	30		
Hillsborough	5	50			2	20	Suwannee	17	170	25	250	8	80
Holmes							Taylor	2	20	2	20		
Jackson	2	20	2	20	7	70	Volusia	67	670	52	520	30	300
Jefferson	22	220	33	330	40	400	Wakulla	10	100	10	100	8	80
Lafayette					1	10	Walton	3	30	3	30	3	30
Lake	70	700	76	760	87	870	Washington			5	50	3	30
Lee	43	430	44	440	85	850							
Leon	22	220	24	240	31	310	Total	462	4,620	607	6,070	638	6,380

^aOrganized as a separate county in 1905.

LIST OF THE GAME LAWS OF FLORIDA.

1827. An act to prevent fire hunting. (Laws of 1827-28, p. 24.)
1828. An act relating to crimes and misdemeanors committed by slaves, free negroes, and mulattoes. (Laws of 1828, p. 174, approved Nov. 21, 1828.)
Sections 46 and 47 prohibited any slave from fire hunting or using, carrying, or keeping firearms for killing game or beasts of prey without a weekly license from his master or overseer.
An act relating to crimes and misdemeanors. (Laws of 1828, p. 48, approved Nov. 22, 1828.)
Section 106 prohibited any person from hunting by fire light at night with firearms beyond his own inclosure.
1851. An act to regulate camp hunting in the counties of Escambia and Santa Rosa. (Laws of 1850-51, chap. 416.)
An act supplemental to an act entitled an act to regulate camp hunting in the counties of Escambia and Santa Rosa, passed at the present session of the general assembly. (Ibid., chap. 417.)
Exempts persons passing from Pensacola to opposite side of Pensacola Bay from operation of chapter 416
1853. An act to prevent fire hunting in the county of St. Johns. (Laws of 1853, chap. 558.)
1855. An act in relation to hunting in this State by citizens of other States. (Laws of 1855, chap. 730.)
1859. An act to prevent the unnecessary use of firearms in the State of Florida on Sunday. (Laws of 1859, chap. 1007.)
1866. An act prescribing additional penalties for the commission of offenses against the State, and for other purposes. (Laws of 1866, chap. 1466.)
Section 19 prohibited hunting or ranging with a gun on inclosed lands of another without permission.
An act to prevent nonresidents from hunting in the counties of Taylor and Lafayette. (Ibid., chap. 1521.)
1875. An act in relation to nonresidents hunting in this State. (Laws of 1875, chap. 2055.)
The first nonresident license law in the State. A \$25 fee required in each county for hunting game for export.
1877. An act to prevent the wanton destruction of the nests, eggs, and young of sea birds and birds of plume in this State. (Laws of 1877, chap. 3043.)
An act for the protection of game and wild birds. (Ibid., chap. 3044.)
1879. An act to repeal chapter 3044, Laws of 1877. (Laws of 1879, chap. 3148.)
An act to prevent aliens from killing or destroying birds of plume on the coast of Florida. (Ibid., chap. 3149.)
1891. An act for the preservation of wild deer, birds, and other game. (Laws of 1891, chap. 4049.)
An act for the protection and preservation of certain plume birds in this State. (Ibid., chap. 4050.)
1893. An act preventing the shipment of partridges and quails killed or entrapped in the State of Florida. (Laws of 1893, chap. 4146.)
An act for the protection of the manatee or sea cow. (Ibid., chap. 4208.)
Prohibits killing manatee except for scientific purposes under permit from county commissioners. Penalty not exceeding \$500 or imprisonment not exceeding three months, or both.
1895. An act for the preservation of wild deer, birds, and other game, and to prescribe the time within which they may be hunted. (Laws of 1895, chap. 4341.)

1895. An act to apply the existing laws on the subject of trespass to realty to uninclosed lands in certain cases, and to prescribe the notices to be posted. (Ibid., chap. 4410.)

Extends laws prohibiting hunting on inclosed lands to all unfenced lands, properly posted, in "no fence" districts of the State.

1897. An act for the appointment of fish and game wardens in the various counties of the State of Florida. (Laws of 1897, chap. 4563.)

1899. An act to regulate the shooting of ducks in the State of Florida. (Laws of 1899, chap. 4781.)

An act to amend chapter 4563, Laws of Florida, entitled "An act for the appointment of fish and game wardens in the various counties in the State of Florida, approved June 5, 1897." (Ibid., chap. 4782.)

An act to authorize the county commissioners of the county of Lee to adopt rules and regulations for the use and preservation of wild game, birds of song and plumage, and wild animals, the skins of which are of commercial value. (Ibid., chap. 4783.)

An act for the preservation of wild deer on Merritt's Island, in Brevard County, Fla. (Ibid., chap. 4785.)

An act for the preservation of wild deer, birds, and other game, and to prescribe the time within which they may be hunted, and prescribing a penalty for any violation thereof. (Ibid., chap. 4784.)

Section 6 requires nonresidents of the State to pay \$10 for the privilege of hunting in any county.

1901. An act prohibiting killing, capturing, or shooting any deer, alligator, waterfowl, or any wild bird (except crows) within 1 mile of the incorporated town of West Palm Beach, Fla. (Laws of 1901, chap. 4956.)

An act for the protection of birds and their nests and eggs, and prescribing a penalty for any violation thereof. (Ibid., chap. 4957.)

This act prohibits killing, catching, possession, or sale of any wild birds other than game birds and a few injurious species, defines game birds, and prohibits destruction of nests and eggs of all non-game birds.

1903. An act for the preservation of wild deer, birds, and other game, and to prescribe the time in which they may be hunted, and to provide that all nonresidents of the State shall take out a license before they shall hunt such wild deer, birds, or other game, and prescribing a penalty for the violation thereof. (Laws of 1903, chap. 5251.)

An act for the protection of wild deer, wild turkeys, partridges, and squirrels in the county of Santa Rosa, State of Florida. (Ibid., chap. 5292.)

An act to regulate the hunting of deer, turkey, and other wild game in Lafayette County. (Ibid., chap. 5293.)

An act to empower the county commissioners of Hillsborough County to appoint an additional game warden or wardens in and for said county. (Ibid., chap. 5295.)

1905. An act relative to the posting of lands. (Laws of 1905, chap. 5418.)

An act to amend chapter 5251 of the laws of Florida, entitled an act for the preservation of wild deer, birds, and other game, and to prescribe the time in which they may be hunted, and to provide that all nonresidents of the State shall take out a license before they shall hunt such wild deer, birds, or other game, and prescribing a penalty for the violation thereof. (Ibid., chap. 5427.)

An act for the preservation of wild otter and beaver in the State of Florida. (Ibid., chap. 5428.)

1905. An act creating the office of fish and game warden and prescribing its duties. (Ibid., chap. 5435.)

An act to further protect wild deer and wild turkeys in the county of Polk and provide a game warden therefor. (Ibid., chap. 5576.)

An act to prohibit the shooting of alligators and limpkins on the Ocklawaha River in this State. (Ibid., chap. 5578.)

NOTE.—The general laws in the above list now in force constitute sections 3404, 3407, 3424, and 3749 to 3763 of the General Statutes of the State of Florida, 1906, and chapters 5418, 5428, and 5435 of the Appendix thereto.

